

APPEAL NO. 030152
FILED FEBRUARY 27, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on December 10, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury in the form of an occupational disease; that the date of injury pursuant to Section 408.007 was _____; that the claimant timely notified his employer of his injury; and that the claimant has had disability as defined by Section 401.011(16) from _____, through the date of the CCH. The appellant (carrier) appealed the hearing officer's determinations on all of the disputed issues. The claimant requests that we affirm the hearing officer's decision.

DECISION

Affirmed.

The hearing officer did not err in her determinations on the issues of occupational disease injury, date of injury, timely notice of injury, and disability. Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury, which is defined in Section 401.011(36). Section 408.007 provides that the date of injury for an occupational disease is the date on which the employee knew or should have known that the disease may be related to the employment. Section 409.001(a) provides that, if the injury is an occupational disease, an employee or a person acting on the employee's behalf shall notify the employer of the employee of an injury not later than the 30th day after the date on which the employee knew or should have known that the injury may be related to the employment. Section 401.011(16) defines "disability" as the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage. Conflicting evidence was presented on the issues of occupational disease injury, date of injury, timely notice to the employer, and disability. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. We conclude that the hearing officer's determinations on the issues of occupational disease injury, date of injury, timely notice to the employer, and disability are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W. 2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **NORTH AMERICAN SPECIALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Gary L. Kilgore
Appeals Judge